

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NSIGHT, INC.,

Plaintiff,

vs.

PEOPLESOFT, INC.,

Defendant.

No. 3:04 CV 3836 MMC (MEJ)

**ORDER GRANTING DEFENDANT'S
MOTION TO COMPEL RESPONSES TO
DOCUMENT REQUESTS,
INTERROGATORIES, AND TO
PRODUCE WITNESS FOR DEPOSITION**

The Court is in receipt of the parties' Joint Meet and Confer Letter Regarding Document Subpoenas (Letter No. 3 of 4), filed May 9, 2006. Doc. #122. In the letter, defendant Oracle USA, Inc. (as successor to PeopleSoft, Inc.) seeks an order compelling: (1) responses from plaintiff nSight, Inc. to its requests for documents served by Oracle on October 18, 2005; (2) responses to its requests to interrogatories served on October 18; and (3) the deposition of nSight's president, Henry Gong, which Oracle noticed on December 6, 2005. nSight did not respond to Oracle's discovery requests, arguing that it brought suit against PeopleSoft, Inc. and, therefore, Oracle does not have standing to propound discovery requests.

Upon review of the parties' letter and relevant legal authority, the Court hereby GRANTS Oracle's request. First, it is clear that Oracle is the successor obligor as to any and all obligations that may be owed to nSight because PeopleSoft, Inc. no longer exists. *See* Collins Decl., Doc. #74. Thus, under Federal Rule of Civil Procedure 25, "in the absence of a motion for substitution and an order of the Court, the action will be continued in the name of the original party to the suit, the successor in interest being bound by any judgment resulting from the litigation." *International Rediscount Corp. v. Hartford Accident and Indemnity Co.*, 425 F. Supp. 669, 674 (D. Del. 1977); *see*

1 also Fed. R. Civ. P. 25©). "Rule 25©) makes plain that when a transfer of interest occurs the case
2 continues seamlessly making substitution unnecessary. *Kraebel v. New York City Department of*
3 *Housing Preservation and Development*, 2002 WL 14364, *4 (S.D.N.Y. 2002). As Oracle is
4 PeopleSoft's successor-in-interest, it is properly in this case.

5 Second, Oracle appeared in this case on September 26, 2005, when it answered nSight's
6 Third Amended Complaint. nSight, at that time, did not object to Oracle's answering as successor to
7 PeopleSoft. Doc. #67.

8 Finally, on March 10, 2006, the parties attended a further status conference before Judge
9 Chesney, at which time it was agreed that the parties would stipulate to formal substitution of Oracle
10 for PeopleSoft as defendant in this action. Doc. #102. Based on these facts, the Court finds no merit
11 to nSight's claim that Oracle has no standing to propound discovery. Accordingly, the Court hereby
12 ORDERS nSight to respond to Oracle's document requests and interrogatories, as well as make
13 Henry Gong available for deposition, within 30 days from the date of this Order. Failure to comply
14 with this Order may result in the imposition of sanctions, including evidence preclusion.

15 **IT IS SO ORDERED.**

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17 Dated: May 11, 2006



18 MARIA-ELENA JAMES
19 United States Magistrate Judge
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